

Referring initially to the rejection of claims 4 and 5 under 35 USC § 112, claim 4 has been amended to specify that "at least one of the first and second gripping portions defines a line tooth" to clarify the line projection can be formed by one line tooth on either of the gripping portions or one line tooth on both of the gripping portions. The Applicant has hereby amended the claims of the present application to include newly presented claim 14, which contains the subject matter of claim 5 rewritten in the required independent form. The language of newly presented claim 14 is similar to that of claim 4 as amended hereby.

The Applicant respectfully submits that the amendment to claim 4 and the similar language in claim 14 render moot the rejection to this language under 35 USC § 112. The Applicant respectfully submits that claim 14 is in condition for allowance, and such allowance is respectfully requested. Claim 5 is now redundant has been cancelled hereby. The Applicant respectfully requests that claim 4 is also allowable for the following reasons.

Turning now to the substantive rejection of claims 1-4 and 7-13, the Applicant respectfully submits that the Hawie reference does not disclose a clip member having a ratchet portion as recited in independent claims 1 and 8. In particular, as defined and depicted throughout the present application, a ratchet portion comprises a series of indentations defining surfaces that allows the collar member to move from the unclamped position to the clamped position. However, the surfaces defining the indentations engage the latch projection of the collar member to prevent movement of the collar member from the clamped position to the unclamped position when the collar member is in an un-deformed state.

In this respect, the term "ratchet" is being used in its standard form. Webster's New World Dictionary (1994) defines this term as follows: "a toothed wheel or bar whose teeth slope in one direction so as to catch and hold a pawl, which thus prevents backward movement". A ratchet thus allows movement in increments in a first direction but prevents movement in a second direction opposite the first direction.

In contrast, the Hawie reference recites a simple aperture 29 in the clip member. When the forward end 28 of the tongue member 27 of the Hawie device reaches the aperture 29, the forward end 28 enters the hole to prevent movement of the sleeve 12

in either direction. The Hawie reference thus does not recite a "ratchet" portion as that term is used in the claims.

The significance of the distinction between the aperture 29 of the Hawie reference and the claimed ratchet portion is that the ratchet portion allows a progressive tightening of the force applied to the finger portions of the clip member. In contrast, the Hawie device simply locks the jaws 14 and 15 of the Hawie device into a single, predetermined position.

Additionally, the Hawie reference teaches away from such a progressive tightening of the jaws 14 and 15. In particular, teeth 19 formed on the upper jaw 15 enter apertures 20 in the lower jaw 14 when the jaws 14 and 15 are clamped together. Further progressive movement of the jaws 14 and 15 towards each other would not increase the clamping force between the two jaws 14 and 15 because these jaws are not intended to come into contact with each other.

The Applicant thus respectfully submits that the Hawie reference does not teach a ratchet portion as recited in independent claims 1 and 8. Further, the structure of the Hawie device would preclude one of ordinary skill in the art from finding motivation to modify the Hawie device to include a ratchet portion. The Applicant respectfully submits that claims 1-4 and 7-13 as originally presented distinguish over the teachings of the Hawie reference, and withdrawal of the rejection under 35 USC § 102(b) based on the Hawie reference is respectfully requested.

The Applicant respectfully notes that the Office Action indicates on the cover sheet that claims 1-13 were rejected but did not provide any reason in the Claim Rejection sections (paragraphs 2-6) for the rejection of claim 6. In any event, the Applicant respectfully submits that the Hawie reference further does not disclose, teach, or suggest the subject matter recited in claim 6 and thus that claim 6 should be allowable for at least the reasons described above with reference to claim 1.

Finally, the Applicant noted an inconsistency in the manner in which the apparatus recited in claims 1-4, 6, and 7 was identified in the preambles of these claims. The Applicant has thus amended claims 1-4, 6, and 7 such that the preambles thereof consistently refer to the claimed apparatus as a clip assembly. These amendments are not intended to alter the scope of these claims in any way.

Submitted herewith is a document (entitled Exhibit A - Listing of All Claims and Amendments (05/16/2005)) containing a listing of the claims as currently presented. The attached Listing contains the text of each pending claim, along with any amendments made hereby (illustrated using strikethrough and underlining) and the status of each pending claim.

Given the foregoing, the Applicant respectfully submits that currently pending claims 1-4 and 6-14 are in condition for allowance, and such allowance is respectfully requested. If there is any matter which could be expedited by consultation with the Applicant's attorney, such would be welcome. The Applicant's attorney can normally be reached at the telephone number below.

Signed at Bellingham, County of Whatcom, State of Washington this 16th day of May, 2005.

Respectfully submitted,

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CERTIFICATE OF MAILING

37 C.F.R. §1.8

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

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Date: May 16, 2005